

1 **3**

2 Law Offices of Peter G. Macaluso  
3 Peter G. Macaluso #215730  
4 7230 South Land Park Dr., Ste. #217  
5 Sacramento, CA 95831  
6 916-392-6591  
7 916-392-6590 Facsimile

8 Attorney for Debtor  
9 Valerie E. Laborde

10  
11 IN THE UNITED STATES BANKRUPTCY COURT  
12 FOR THE EASTERN DISTRICT OF CALIFORNIA  
13 SACRAMENTO DIVISION  
14

15 IN THE MATTER OF

16 Laborde, Valeria E.  
17 SS#xxx-xx-2824

CASE NO. 14-26614-D-13G  
DOCKET CONTROL #:PGM-2  
DATE: March 3, 2015  
TIME: 10:00 a.m.  
DEPT#: D, Courtroom 34  
Honorable Judge Robert Bardwil

18 \_\_\_\_\_/ Debtors

19 **OBJECTION TO THE CLAIM OF DANIEL CARLOS CHIRAMBERRO**  
20 **LARRATEGUI - CLAIM NUMBER 3-1**

21 Debtor by and through her attorney of record, object to  
22 the claim of The Daniel Carlos Chiramberro Larrategui  
23 (Creditor) on the following grounds:

24 **I. Facts:**

25 1. On or about, 9/18/14, Creditor filed a Unsecured  
26 Priority claim in the amount of \$60,000.00 in the above  
27 referenced case. Refer to Exhibit "A" filed herewith.

28 2. Upon review of proof of claim #3-1, alleges that  
\$60,000.00 is owed for "Child Support", however, there is no  
documentation listing the jurisdiction of the Order for Child

1 Support, nor the order itself.

2 3. Additionally, the Creditor has signed an agreement  
3 not to seek any further funds for child support while  
4 litigating the dispute in U.S. District Court, after the  
5 attorney fees pursuant to claim 2-1, and as directed through  
6 Judge Mendez in the U.S. District Court, case #2:13-cv-01175  
7 JAM-EFB ("U.S. District Case"). Refer to Exhibit "B" filed  
8 herewith.

9 **II. Analysis:**

10 While a proof of claim has the presumption of validity,  
11 here such a presumption has been challenged and the burden of  
12 proof shifts.

13 While a proof of claim is presumed to be prima facie  
14 valid. The presumption may be overcome by the objecting party  
15 only if it offers evidence of equally probative value in  
16 rebutting that offered by the proof of claim. In re Holm, 931  
17 F.2d 620, 623 (9th Cir. 1991). The burden then shifts back to  
18 the claimant to produce evidence meeting the objection and  
19 establishing the claim. In re Knize, 201 B.R. 773, 779 (Bankr.  
20 N.D. Ill. 1997). When a claim is based on a writing, the  
21 original or a duplicate shall be filed with the proof of  
22 claim.

23 Nowhere in the proof of claim is there any evidence of  
24 such a claim being ordered by any competent court. Nowhere in  
25 the record in the U.S. District Court is there such an order.  
26 In fact, within the filings of the U.S. District Case is  
27

1 reference to an agreement by the creditor to not seek any  
2 child support during the pendency of the litigation while here  
3 in California.

4 As such, the debtor has provided sufficient evidence to  
5 shift the burden to the creditor to prove-up the claim that  
6 \$60,000.00 is owed for child support.

7 **III. Conclusion:**

8 Therefore, Creditor's claim should be denied in full as  
9 no valid Court Order has been issued to support that the claim  
10 exists at all.

11 Wherefore, Debtors pray that the Objection is sustained.

12  
13 Dated: 1/15/15

14 /s/Peter G. Macaluso  
Peter G. Macaluso, Attorney at Law